

1
2
3
4

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

CECIL LAMAR HALL,

Petitioner,

10 || vs.

2:08-cv-01825-GMN-GWF

ORDER

11 DIRECTOR, DEPARTMENT OF
12 CORRECTIONS, *et al.*,

Respondents.

15 This habeas matter under 28 U.S.C. § 2254 comes before the Court for initial review
16 under Rule 4 of the Rules Governing Section 2254 Cases (the “Habeas Rules”) of the first
17 amended petition (#18) filed by the Federal Public Defender, following the completion of
18 discovery. Following upon said review, a response will be directed.

IT THEREFORE IS ORDERED that, taking into account the claims and issues presented, respondents shall have forty-five (45) days from entry of this order within which to answer, or otherwise respond to, the amended petition, including by motion to dismiss.

IT FURTHER IS ORDERED that, given the potential issues presented, and further pursuant to Habeas Rule 4, respondents shall present their defenses in this case in accordance with the following order:

- 25 (1) any exhaustion issues – if any – raised by respondents shall be raised
26 first in a separate motion to dismiss without other defenses;
27 (2) if no such issues are raised or following the resolution of same, all other
28 procedural defenses – if any – raised by respondents, including

1 timeliness and relation back, procedural default, and failure to state a
2 claim, to the extent applicable, shall be raised in a single additional
3 motion to dismiss; and

- 4 (3) if an answer is filed, the answer shall address only merits defenses and
5 shall specifically cite to and address the applicable state court written
6 decision and state court record materials, if any, regarding each claim
7 within the argument as to that claim.

8 Respondents shall not be deemed to have waived any defenses by addressing the
9 issues in the order directed herein. The Court does not wish to entertain any procedural
10 defenses in this case in an answer that combines both procedural defenses and merits
11 defenses. The Court may modify the order in which issues and/or claims are considered as
12 the case proceeds forward.

13 IT FURTHER IS ORDERED that petitioner shall have forty-five (45) days from service
14 of the answer, motion to dismiss, or other response to file a reply or opposition.

15 **The Court has sought to take into account petitioner's counsel's maternity leave**
16 **in setting the deadlines herein. Any requests for extensions of time based upon**
17 **scheduling conflicts with other cases in this Court shall affirmatively reflect that the**
18 **other cases with conflicting scheduling requirements were filed prior to this case,**
19 **absent other extraordinary circumstances.**

20 DATED this 20th day of April, 2011.

21
22
23 
Gloria M. Navarro
24 United States District Judge
25
26
27
28